

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

NICHOLAS F. BELLEZZA,

Plaintiff

v.

3:17-CV-1884

(JUDGE MARIANI)

TERENCE F. DUFFY, M.D.,

Defendant

ORDER

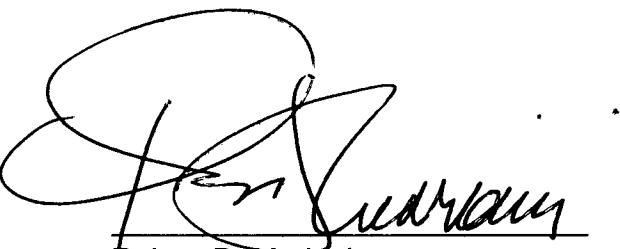
AND NOW, THIS 14th DAY OF FEBRUARY, 2019, upon *de novo* review of

Magistrate Judge Schwab's Report and Recommendation ("R&R") (Doc. 22), IT IS

HEREBY ORDERED THAT:

1. The R&R (Doc. 22) is **ADOPTED** for the reasons set forth therein.
2. Defendant's Objections (Doc. 23) are **OVERRULED**. Defendant Duffy objects only to the Magistrate Judge's recommendation that Plaintiff be granted leave to file an Amended Complaint. While Defendant's arguments in support of this action's dismissal with prejudice may be meritorious and ultimately form the basis for this Court to dismiss this action with prejudice following the filing of another motion to dismiss or a motion for summary judgment, for the reasons explained by the Magistrate Judge, and in the interest of affording Plaintiff every reasonable opportunity to set forth a colorable claim, Plaintiff will be afforded an opportunity to cure the deficiencies identified in the R&R.

3. Defendant's Motion to Dismiss (Doc. 16) is **GRANTED**.
4. Plaintiff's Complaint (Doc. 1) is **DISMISSED WITHOUT PREJUDICE**. As Plaintiff submitted an Amended Complaint on February 7, 2019, the Court deems the Amended Complaint (Doc. 24) to have been filed.
5. The case is **REMANDED** to Magistrate Judge Schwab for further proceedings consistent with this Order.



Robert D. Mariani
United States District Judge